

MINUTES

ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 20, 2007

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Also in attendance was Superintendent Huskey.

John Keeler, Marc Carmichael, Jeff McKean, Brad Klopfenstein, and Jim Purucker were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the November 7, 2007 meeting. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the November 20, 2007 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the

inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Three hundred eight (308) renewals approved, eighty (80) new and/or transfer permits approved, four (4) permits approved for catering, three (3) permits approved for first year escrow, seven (7) permits approved for second year escrow, one (1) permit approved for fourth year escrow and one (1) permit approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR43-91544 THE BARBEE LANDING, INC. – Commissioner Guthrie stated this renewal was originally denied by the local board and the Commission. An appeal was filed; however, no audio recording was made of the local board meeting regarding the denial. Staff Attorney Melissa Coxey requested the Commission remand this to the local board, so there would be a record of the local board to have for the appeal proceedings.

Commissioner Guthrie moved to remand this renewal to the local board. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL43-22895 FREEDOM OIL, LLC – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR43-15515 SLEEPY OWL SUPPER CLUB, INC. – Chairman Heath noted this is a type 209 transfer of ownership application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie stated the local board found that the orange sign was not posted the required 10 day period; however, they recommended approval.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR43-23472 T.O. DOWNTOWN, INC., D/B/A DEWART LAKE INN – Chairman Heath noted this is a new type 209 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie stated the local board found that the orange sign was not posted the required 10 day period; however, they recommended approval.

Commissioner Guthrie moved to uphold the local board and approve the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR75-23444 & 23445 MARTIN HERRERA, D/B/A MEXICO LINDO RESTAURANT – Chairman Heath noted these are new type 103 and 210-1 applications with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permits. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR79-09761 LBVP, INC., D/B/A VARSITY CLUBHOUSE – Chairman Heath noted Officer Michelle Traugher requested this matter be remanded to the local board.

Commissioner Guthrie moved to remand this to the local board. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-23116 GASAMERICA SERVICES, INC. – Chairman Heath noted this is a new type 116 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-06080 DUNGEON, INC., D/B/A DREAM WEAVERS – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited public nuisance and character of owner as reason for recommending denial. The record shows a long list of police runs including some that involve weapons.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL16-23462 L & P, INC. – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to two (2).

Commissioner Guthrie noted 16% of the population of this town signed petitions in favor of this permit.

Commissioner Guthrie moved to approve the new permit based on the town's support. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL19-23469 C.E. TAYLOR OIL, INC. – Chairman Heath noted this is a new type 107 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

INACTIVE FILES

PERMITS MADE INACTIVE - Vice Chairman Johnson moved to make eleven (11) permits inactive. All eleven (11) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL82-010009 AND DL82-02583 WHITEHEAD ENTERPRISES, INC. – Commissioner Guthrie noted these two permits are located in two different locations where active permits are already located. The five year escrow period has ended, so it appears that the owner is trying to switch the permits back and forth to avoid the escrow rules.

Commissioner Guthrie moved to declare both permits inactive. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-02289 AREVALO, INC. – Commissioner Guthrie noted this permittee has not followed escrow rules and procedures and now it appears there are discrepancies in signatures on the applications. The permittee was supposed to appear at this office to authenticate the signatures; however, he never appeared.

Commissioner Guthrie moved to declare this permit inactive. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

M 31-23635 INDIAN CREEK WINERY – Commissioner Guthrie noted this applicant is requesting that the Commission allow him to begin the wine making process prior to license approval.

Commissioner Guthrie moved to table this matter for further investigation. Motion seconded by Commissioner Sturtz and it was unanimously approved.

ADDITIONAL WINERY LOCATION REQUESTS – Chairman Heath stated Indiana law allows farm wineries to conduct business at three additional retail locations that are separate from the actual winery only upon approval from the Commission. The process of investigating the desirability of an additional retail location is more appropriately suited to the local alcoholic beverage boards. Although the farm winery statutes do not expressly contemplate consideration by the local boards, delegating the investigation is within the sound discretion of the Commission. The local boards are best suited to assess the needs, desires and best interest of the communities in which they are seated. Therefore, any additional farm winery locations shall be evaluated by the local board prior to Commission approval.

Commissioner Guthrie moved to approve this new policy. Motion seconded by Commissioner Sturtz and it was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

Chairman Heath welcomed Joe Heerens, from the Governor's Office, to our meeting.

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2007.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER